

BEFORE THE DEPARTMENT  
OF NATURAL RESOURCES AND CONSERVATION  
OF THE STATE OF MONTANA

\* \* \* \* \*

IN THE MATTER OF THE APPLICATION )  
FOR CHANGE OF APPROPRIATION )  
WATER RIGHT NO. G150741-41H )  
BY MARC G. BELL & THOMAS R. )  
GOLDSMITH )

ORDER

FILMED

JAN 4 1991

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In the above stated matter, the Applicants and the Objector have reached a settlement based on a number of conditions they feel necessary to protect existing rights. The Hearing Examiner agrees and accepts the conditions proposed by the Applicants and the Objector. The Hearing Examiner also believes it necessary to have one additional condition. The reason for imposing this condition is to: 1) better evaluate any effect this change may have to other water rights, and 2) better follow the policies of this Department. This condition is Item G.

Therefore, based upon the signed agreement and Condition G, the Hearing Examiner makes the following:

Order

Subject to the terms, conditions, restrictions, and limitations specified below, Application for Change of Appropriation Water Right No. G150741-41H is hereby granted to Marc G. Bell and Thomas R. Goldsmith to change the point of diversion of Claim No. W150741-41H for a total of 0.5 cfs up to 90 acre-feet of water per year to be used by the Applicants for irrigation.

The specific change which is authorized by grant of this Application is as follows:

CASE # 150741

The Applicants are authorized to abandon their old point of diversion located in SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 14, Township 3 South, Range 5 East, all in Gallatin County, Montana to a new site to be located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 10, Township 3 South, Range 5 East, all in Gallatin County, Montana.

This Change Authorization is subject to the following express terms, conditions, restrictions, and limitations:

A. Any water rights evidenced herein are subject to all prior and existing water rights, and to any final determination of such rights as provided by Montana law. Nothing herein shall be construed to authorize the Appropriators to divert water to the detriment of any senior appropriator.

B. Issuance of this Change Authorization by the Department shall not reduce Appropriators' liability for damages caused by the exercise of this authorization, nor does the Department, in issuing this authorization, acknowledge any liability for damages caused by the exercise hereof even if such damages are a necessary and unavoidable consequence of same.

C. The Appropriators shall in no event cause to be withdrawn from the source of supply more water than is reasonably required for the purposes provided for herein.


D. Issuance of this Change Authorization shall not be construed as a grant of any legal right to the use of the Dusenberry Ditch or the Dusenberry easement, or as a grant of another easement for conduction of the water diverted pursuant to this right.


E. The Appropriators may not divert water hereunder if such diversion would result in a total diversion into the Dusenberry Ditch of more water than it has the capacity to carry.

F. The Appropriators shall participate with other appropriators on the Dusenberry Ditch to maintain the measuring device at the headgate. The Appropriators shall cause no more than 100 M.I. of water to be diverted at the headgate until the Dusenberry Ditch is properly cleaned and maintained as determined by the Department, after which time no more than 120 M.I. may be diverted.

G. The Appropriators shall submit to the Bozeman Water Resources Division Field Office the electrical power use records (beginning and year's end), the make and model of the pump and motor, the operating pressure, the nozzle sizes and number of sprinkler heads. This report will be due on November 30 of each year.

Dated this 26 day of November, 1990.

  
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Gary Fritz, Administrator  
Department of Natural  
Resources and Conservation  
Water Resources Division  
1520 East 6th Avenue  
Helena, Montana 59620-2301  
(406) 444-6605

  
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T. J. Reynolds, Hearing Examiner  
Department of Natural  
Resources and Conservation  
1520 East 6th Avenue  
Helena, Montana 59620-2301  
(406) 444-6695

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Order was duly served upon all parties of record at

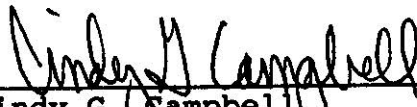
their address or addresses this 26<sup>th</sup> day of November, 1990 as follows:

Marc G. Bell and  
Thomas R. Goldsmith  
10150 Cottonwood Rd.  
Bozeman, MT 59715

Martin Westland  
8379 S. 19th  
Bozeman, MT 59715

Honorable Bruce Loble  
Chief Water Judge  
Montana Water Courts  
601 Haggarty Lane  
P.O. Box 879  
Bozeman, MT 59771-0879

Scott Compton, Field Manager  
Bozeman Water Resources  
Division Field Office  
111 N. Tracy  
Bozeman, MT 59715

  
Cindy G. Campbell  
Hearings Unit Secretary